

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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HILARY BEST,

Plaintiff,

-against-

ORDER

12-CV-6142 (NGG) (MDG)

MYLES SCHNEIDER, ANKUR SARAIYA,
MICHAEL HOGAN, ANN MARIE
BARBAROTTA, MARIA LOURDES
GONZALES, PHILIP NINAN, YEVGENIY
KHALDAROV,

Defendants.
-----X

NICHOLAS G. GARAUFIS, United States District Judge.

Pro se Plaintiff Hilary Best brings this action pursuant to 42 U.S.C. § 1983, alleging the violation of his constitutional rights in connection with his involuntary commitment at Creedmoor Psychiatric Center in Queens, New York. (See Am. Compl. (Dkt. 6) at 4.) On May 13, 2013, Plaintiff moved for leave to file a second amended complaint. (Mot. for Pre-Mot. Conf. (Dkt. 50).) On May 23, 2013, the undersigned referred Plaintiff's motion, along with Defendants' then-anticipated motions to dismiss (see Mots. to Dismiss (Dkts. 52, 62)) to Magistrate Judge Marilyn D. Go for a Report and Recommendation ("R&R") pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b)(1) (Order (Dkt. 51)). Now before the court is Judge Go's R&R addressing Plaintiff's motion seeking leave to amend his complaint. (Mar. 30, 2016, R&R ("R&R") (Dkt. 112).)

In her R&R, Judge Go recommended that Plaintiff be denied leave to file a second amended complaint, because his proposed amended claims are futile. (R&R at 11-21.) Judge Go also recommended that the case caption and docket sheet be changed to reflect the correct

name and spelling of Defendant Ma Lourdes Gonzalez (s/h/a Maria Lourdes Gonzales). (Id. at 21.)

No party has objected to Judge Go's R&R, and the time to do so has passed. See Fed. R. Civ. P. 72(b)(2). (See also R&R at 22 ("Objections to the [R&R] must be filed . . . by April 18, 2016. Failure to file objections within the time specified waives the right to appeal.").) Therefore, the court reviews the R&R for clear error. See Gesualdi v. Mack Excavation & Trailer Serv., Inc., No. 09-CV-2502 (KAM) (JO), 2010 WL 985294, at *1 (E.D.N.Y. Mar. 15, 2010); La Torres v. Walker, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000); cf. 28 U.S.C. § 636(b)(1).

Finding no clear error, the court ADOPTS IN FULL the R&R and, accordingly, DENIES Plaintiff's motion for leave to file a second amended complaint. The Clerk of Court is respectfully directed to amend the case caption and docket sheet to reflect the correct name and spelling of Defendant Ma Lourdes Gonzalez.

SO ORDERED.

Dated: Brooklyn, New York
April 20, 2016

s/Nicholas G. Garaufis

/NICHOLAS G. GARAUFIS
United States District Judge